
EVALUATOR MANUAL TRANSMITTAL SHEET

<u>Distribution:</u>	<u>Transmittal No.</u> 11APX-05
<input type="checkbox"/> All Child Care Evaluator Manual Holders <input type="checkbox"/> All Residential Care Evaluator Manual Holders <input checked="" type="checkbox"/> All Evaluator Manual Holders	<u>Date Issued</u> April 2011

Subject:

2010 Chaptered Legislation
Appendix A - Adult Community Care Facilities and Residential Care Facilities for the Chronically Ill

Reason for Change:

This document transmits summaries of legislation chaptered in 2010 affecting Community Care Facilities (Adult Residential). The summaries are divided into two sections as follows:

1. Immediate Action Required - Interim instructions are provided.
2. Information Only - No action required by the Community Care Licensing Division

An index is attached to assist staff in locating specific bills. Statutes referenced in this document became operative on January 1, 2011.

Filing Instructions:

INSERT – 2010 Chaptered Legislation. Do not remove similar documents from the previous years.

Approved:

Original signed by Thomas Stahl

4/26/2011

THOMAS STAHL Chief
Policy Development Bureau
Community Care Licensing Division

Date

Contact Person: Thomas Stahl

Phone Number: (916) 651-5335

SUMMARY AND IMPLEMENTATION PLANS 2010 CHAPTERED LEGISLATION

COMMUNITY CARE FACILITIES ADULT RESIDENTIAL

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Unless otherwise noted, all new legislation becomes effective on January 1, 2011. When conducting licensing visits, LPAs should, to the extent practical, make sure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee's responsibility to be aware of any new requirements affecting their program.

ACTION REQUIRED

AB 2629 (Lowenthal), Chapter 211, Statutes of 2010

Affects: Residential Community Care Facilities (CCF) and Residential Care Facilities for the Chronically Ill (RCF-CI)

Subject: Residential Care Facilities: Bedridden Persons

Summary: Assembly Bill 2629 enabled temporarily bedridden persons in all licensed residential CCFs and RCF-CIs to remain in the facility beyond fourteen days without requiring a bedridden fire clearance under specified conditions. This made the temporarily bedridden statutes consistent across all licensed residential care facility categories since this language already existed in the Residential Care Facilities for the Elderly Act. This bill also provided uniformity in fire-safety protection among these facility categories.

- The status of being bedridden, for the purposes of a fire clearance, does not include situations where persons have a temporary illness or are recovering from surgery that lasts 14 days or less.
- A temporarily bedridden person (not considered bedridden for fire clearance purposes as described above) can be retained in a residential community care facility or RCF-CI beyond 14 days without a bedridden fire clearance when all of the following occur:
 - The facility notifies the Department in writing that they are caring for a person who is recovering from a temporary illness or surgery.
 - The facility submits a written statement by the physician/surgeon stating the illness/recovery is temporary and provides an estimated date upon which the illness/recovery is expected to end or will no longer be confined to bed.
 - The Department determines that the person's health and safety is adequately protected in the facility and that transfer to a higher level of care is not necessary.
 - The scope of care and supervision is within what is allowed for that facility type.
- Within 48 hours of a bedridden (including temporarily bedridden) person's admission or retention in a residential community care facility or RCF-CI, the licensee is required to notify the fire authority having jurisdiction over the bedridden person's location, of the estimated length of time the person will retain his or her bedridden status.
- Except for ARFPSHNs, no other residential community care facility or RCF-CI can admit or retain a person who requires 24-hour skilled nursing care.

Implementation: A person who is bedridden because of temporary illness or for recovery from surgery that lasts 14 days or less is allowed to be admitted to and retained in a licensed residential care facility (all facility types) without a bedridden fire clearance and will be referred to in this document as **temporarily bedridden**. These temporary types of conditions may include a bedridden client/resident receiving hospice care. However, unless the licensee already has a bedridden fire clearance for the bedridden person, a licensee admitting or retaining a bedridden client/resident (even one who is temporarily bedridden), within 48 hours of the client's/resident's admission to or retention in a facility, must notify the fire authority with jurisdiction of the estimated length of time that the client/resident will retain his/her bedridden status in the facility.

Enforcement Procedures

Licensees found not to have contacted the local fire authority within 48 hours shall be cited under the following applicable statute:

Community Care Facilities Act
Health and Safety Code section 1566.45(e)

Residential Care Facilities for the Chronically III
Health and Safety Code section 1568.0832(d)

A plan of correction shall require the facility to immediately notify the local fire authority and provide proof of this notification to the Licensing Program Analyst in order to satisfy meeting the plan of correction. Examples of proof of notification include, but are not limited to, a written statement by the licensee that the notification requirement was met or a copy of correspondence to the local fire authority. Please note that documentation is not required unless it is part of a plan of correction.

Residents Receiving Hospice Care in a Residential Community Care Facility and Residential Care Facility for the Chronically III.

A facility is not required to obtain a bedridden fire clearance for persons that have a temporary illness or are recovering from surgery lasting 14 days or less. A terminally ill client/resident means that the client/resident's life expectancy is six months or less (one year or less for Residential Care Facilities for the Chronically III) if his/her illness or condition runs its normal course [California Code of Regulations, Title 22, Sections 85001(t)(1) and 87101(t)(1) and Health and Safety Code Section 1568.01(l)]. In addition, to be considered terminally ill the client/resident must be receiving hospice care from a hospice agency. If the client/resident will be bedridden for 14 days or less then the client/resident receiving hospice care is also considered **temporarily bedridden**. Extensions of temporarily bedridden status are allowed beyond the 14 days as long as the requirements of statute are met (see below).

Extension of Temporarily Bedridden Status Beyond 14 days

A **temporarily bedridden** client/resident may be retained in a residential facility in excess of 14 days without the facility being required to obtain a bedridden fire clearance if all of the following are met:

1. The facility notifies the Department in writing that the person is recovering from a temporary illness or surgery.
2. The facility submits to the Department, with the notification required in paragraph (1), a physician and surgeon's written statement to the effect that the client's/resident's illness or recovery is of a temporary nature. The statement shall contain an estimated date upon which the illness or recovery is expected to end or upon which the client is expected to no longer be confined to bed.
3. The Department determines that the client's/resident's health and safety is adequately protected in the facility and that transfer to a higher level of care is not necessary.
4. The scope of care and supervision is within what is allowed for this facility type.

Procedure for an Extension

Once the licensing program analyst receives written notification and the physician/surgeon's written statement from the licensee as stated above, the licensing program analyst shall discuss this request with their licensing program manager to make a determination whether the health and safety of the client/resident is adequately protected in the facility and that transfer to a higher level of care is not necessary. As a best practice, the licensee's written notification may include a statement that the licensee has notified the local fire authority having jurisdiction of the presence of a temporarily bedridden person. Factors that the Department may consider when making this determination include, but are not limited to, the following:

- the client's/resident's Needs and Services Plan and/or Hospice Plan of Care;
- the compliance history of the facility;
- the facility's ability to meet the client's/resident's care needs including, but not limited to, a sufficient number of staff that are appropriately trained to meet those particular needs;
- a determination if the client/resident has a condition (e.g., prohibited health condition) or requires care (e.g., 24-hour skilled nursing care) that can't be legally provided under that facility category; and
- the facility's emergency disaster plan and other safety precautions are current and in place.

The licensing program analyst also must verify if the licensee met the requirement to notify the fire authority having jurisdiction of the presence of a temporarily bedridden

person [Health and Safety Code Section 1566.45(e) for Residential Community Care Facilities and Health and Safety Code Section 1568.0832(d) for Residential Care Facilities for the Chronically III].

The licensing program analyst shall notify the licensee of the determination by the Department on whether the statute requirements were satisfied via an approval letter. If the request is denied, the licensing program analyst must send the licensee a denial letter that includes the reason for the denial, the date by which the licensee must submit a written relocation plan and notification regarding the licensee's appeal rights. Approval by the Department is required in order for a facility to retain a temporarily bedridden client/resident beyond 14 days unless they already have an appropriate fire clearance.

If the request is approved, the licensing program analyst must follow-up to ensure that the client's/resident's temporarily bedridden status has ceased by the date estimated in the licensee's approval request.

In the event that a licensee obtains approval to retain a temporarily bedridden client/resident for more than 14 days, but the client's/resident's bedridden status persists beyond the date estimated in the request for approval, the licensee must submit another request for extension of the approval, including updates of all of the information listed above. The Department's approval is required in order to retain the client/resident beyond the original extension date. If the licensee fails to submit the updated request, follow the procedures below (enforcement procedures).

Extension requests for **temporarily bedridden** beyond 60 days for a client/resident must be approved by the Regional Manager.

Enforcement Procedures

In the event that a facility has retained a temporarily bedridden person for longer than 14 days and the requirements listed above have not been met, the licensing program analyst shall cite the licensee under the following applicable statute:

Community Care Facilities Act
Health and Safety Code section 1566.45(d)

Residential Care Facilities for the Chronically III
Health and Safety Code section 1568.0832(c)

ACTION REQUIRED

SB 853 (Committee on Budget and Fiscal Review), Chapter 717, Statutes of 2010

Affects: Adult Residential Facilities for Persons with Special Health Care Needs (ARFPSHN)

Subject: Creates ARFPSHN as a Permanent Category, Clarifies Administrator Training Requirements, Legislative Clean Up

Summary: SB 853 (Committee on Budget and Fiscal Review, 2010), authorizes the California Department of Developmental Services (CDDS) and the Department of Social Services (CDSS) to end the four-year ARFPSHN pilot project, and makes the licensing category permanent. ARFPSHNs are community-based residential facilities which provide 24-hour care to adults with developmental disabilities who have special health care and intensive support needs.

The original pilot, authorized by SB 962 (Chesbro, 2005), was created to facilitate the closure of Agnews Developmental Center. SB 962 limited resident eligibility to clients served by the San Andreas Regional Center, the Regional Center of the East Bay and the Golden Gate Regional Center.

SB 853 added Welfare and Institutions (WI) Code section 4684.58, which requires that the administrator of an ARFPSHN complete the initial 35-hour administrator certification program for Adult Residential Facilities, pursuant to paragraph (1) of subdivision (c) of Section 1562.3 of the Health and Safety Code. Since this requirement is in the WI Code, the Department is not responsible for enforcement of this section.

Implementation: These statutory requirements are effective January 1, 2011, and the Community Care Licensing Division (CCLD) shall implement as follows:

- This bill expanded the ARFPSHN category to include all regional centers involved in the closure of the Lanterman Developmental Center, as determined by the State Department of Developmental Services.
- Licensure and oversight of ARFPSHNs are governed by the Community Care Facilities Act and Title 22 General Licensing Requirements, Articles 1 through 7.

INFORMATION ONLY - NO ACTION REQUIRED

AB 2493 (Fuller), Chapter 97, Statutes of 2010

Affects: Community Care Facilities (CCFs), Residential Care Facilities for Persons with Chronic Life-Threatening Illness (RCF-CIs), and Residential Care Facilities for the Elderly (RCFEs).

Subject: Conservatee photographs

Summary: This legislation requires, upon the establishment of a conservatorship by the court and annually thereafter, that a conservator of a person ensures that a clear photograph of the conservatee is taken and preserved for the purpose of identifying the conservatee if he or she becomes missing.

INFORMATION ONLY - NO ACTION REQUIRED

AB 2619 (Block), Chapter 64, Statutes of 2010

Affects: Community Care Facilities (CCFs), Residential Care Facilities for Persons with Chronic Life-Threatening Illness (RCF-CIs), and Residential Care Facilities for the Elderly (RCFEs).

Subject: Elder/Dependent Adult Abuse: restitution, earnings withholding orders

Summary: This legislation requires the courts to issue an earnings withholding order for elder or dependent adult financial abuse, as defined, for a defendant who has been found liable for financial abuse of an elder or dependent adult.

INFORMATION ONLY - NO ACTION REQUIRED

AB 2683 (Hernandez), Chapter 604, Statutes of 2010

Affects: Community Care Facilities (CCFs), Residential Care Facilities for Persons with Chronic Life-Threatening Illness (RCF-CIs), and Residential Care Facilities for the Elderly (RCFEs).

Subject: Optometry

Summary: This legislation authorizes the practice of optometry at a health facility or residential care facility, as defined, provided the optometrist meets specified requirements, including, but not limited to, those related to maintaining a nonresidential primary business office, patient access to, and disclosure of, patient records, and specified recordkeeping requirements. The legislation exempts from the address notification requirements to the board an optometrist who practices in a health facility or residential care facility and who meets the requirements. This legislation authorizes an

assistant to fill prescription lenses and perform those additional duties in any setting where optometry or ophthalmology is practiced, under the direct responsibility and supervision of a physician and surgeon, optometrist, or ophthalmologist, respectively. The legislation defines “setting” for purposes of these provisions to include, without limitation, any facility licensed by the State Department of Public Health or the State Department of Social Services.

INFORMATION ONLY - NO ACTION REQUIRED

SB 110 (Liu), Chapter 617, Statutes of 2010

Affects: Community Care Facilities (CCFs), Residential Care Facilities for Persons with Chronic Life-Threatening Illness (RCF-CIs), and Residential Care Facilities for the Elderly (RCFEs).

Subject: People with disabilities: victims of crime
Crime Victims with Disabilities Act of 2010

Summary: This legislation is intended to increase the prevention, investigation, and prosecution of crimes against people with disabilities. The legislation creates new reporting requirements for mandated reporters within the Department of Developmental Services, establishes new tracking requirements for crimes against persons with disabilities, adds dependent adult suspicious deaths to the purview of county interagency death review teams, and encourages new training programs for law enforcement personnel who investigate those crimes.

INFORMATION ONLY - NO ACTION REQUIRED

SB 1069 (Pavley), Chapter 512, Statutes of 2010

Affects: Community Care Facilities (CCFs), Residential Care Facilities for Persons with Chronic Life-Threatening Illness (RCF-CIs), and Residential Care Facilities for the Elderly (RCFEs).

Subject: Physician Assistants

Summary: This legislation authorizes a physician assistant to sign and attest to any document evidencing any physical examination or similar task that might ordinarily be signed by his or her supervising physician when the performance of the examination or task and the execution of those documents are within the physician assistant’s scope of practice.